UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/595,511	04/25/2006	David John Lawrence	LAWD0101PUSA	1869

22045 7590 10/07/2008

BROOKS KUSHMAN P.C.
1000 TOWN CENTER
TWENTY-SECOND FLOOR
SOUTHFIELD, MI 48075

EXAMINER	
HIJAZ, OMAR F	

ART UNIT	PAPER NUMBER
4165	

MAIL DATE	DELIVERY MODE
10/07/2008	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/595,511	LAWRENCE ET AL.	
	Examiner	Art Unit	
	OMAR HIJAZ	4165	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *15 September 2008*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-22* is/are pending in the application.

4a) Of the above claim(s) *11-14 and 22* is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-10 and 15-21* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☒ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *25 April 2006* is/are: a)☐ accepted or b)☒ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☒ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date *07/27/2006*.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

This communication is a first Office Action Non-Final rejection on the merits. Claims 1-22 are pending and have been considered below.

Election/Restrictions

1. Applicant's election without traverse of claims 3-10 and 16-20 in the reply filed on September 15, 2008 is acknowledged.

2. Claims 11-14 and 22 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to nonelected Species 1-3 and 5, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on September 15, 2008.

Drawings

3. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(4) because reference character "438" has been used to designate both the stiffening rib and an unknown feature in figure 13. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

4. In addition to Replacement Sheets containing the corrected drawing figure(s), applicant is required to submit a marked-up copy of each Replacement Sheet including annotations indicating the changes made to the previous version. The marked-up copy must be clearly labeled as "Annotated Sheets" and must be presented in the amendment or remarks section that explains the change(s) to the drawings. See 37 CFR 1.121(d)(1). Failure to timely submit the proposed drawing and marked-up copy will result in the abandonment of the application.

Claim Objections

5. Claims 2-10 and 16-21 are objected to because of the following informalities:

In claims 2-10 at line 1, the preamble should read --The building element-- instead of "A building element".

In claim 3 at line 2, the recitation "a connector" should be replaced with --said connector--.

In claim 4 at line 3, there should be comma punctuation after the recitation "an end" and another comma after the recitation "connector" for clarity. In addition, at line 4, the comma after the recitation "a similar" should be removed. In addition, at line 5, the recitation "connectors so located are" should be replaced with --connectors are--.

In claim 5 at line 2, the recitation "said a plurality" should be replaced with --a plurality--.

In claim 6 at line 2, the recitation "is top frame member" should be replaced with --is a top frame member--.

In claims 7 and 17, at line 3, the recitation "said wall top frame member" should be replaced with --said top frame member of a wall--.

In claims 8 and 18, at line 2, the recitation "horizontal wall frame member" should be replaced with --a horizontal wall frame member--.

In claims 16-19 at line 1, the preamble should read --The method-- instead of "A method".

In claims 20-21 at line 1, the recitation "element of a building frame" should be replaced with --element of said building frame--.

Appropriate correction is required.

Claim Rejections - 35 USC § 102

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

7. Claims 1-10 and 15-21 are rejected under 35 U.S.C. 102(b) as being anticipated by Jones (U.S. Patent No. 6,412,233).

As per claim 1, Jones teaches a building element connection and spacing device (a system for positioning and securing structural members to supporting walls of a building; abstract) including a member (mounting device 105) of substantially inextensible material (the C-shaped channels of mounting device 105 are highly resistant to being deformed; col. 6, lines 10-11), a connector (fixing member 120) located at at least one longitudinal position on said member (as illustrated, the fixing member 120 is located longitudinally on mounting device 105; figure 6) for providing a

connection between building elements (truss member 22 is fastened to fixing member 120; col. 4, lines 31-35), and at least one index at a longitudinal position on said member corresponding to an element spacing distance (the center to center distance A between adjacent structural members is selected to be a standard in the construction industry; in addition, dimension A can have alternate index intervals; col. 4, lines 3-9; and further evidenced in figure 1; in addition, it is construed that an index can be located at any desired point including at the fixing member location).

As per claim 2, Jones teaches said index is a second or further connector location (as illustrated, the fixing members 120a and 120b are separated by a given distance; figure 1; it is construed that this distance can be marked by indexes).

As per claim 3, Jones teaches said member is a strip (as illustrated, mounting device 105 consists of strip-like tabs 116; figure 1) and said connector is attached to the strip (as illustrated, fixing members 120a and 120b are connected to the tabs 116; figure 1) at a first longitudinal position (120a) and at at least one further longitudinal position (120b), the spacing between the connectors corresponding to the element spacing distance (distance A; it is construed that an index can be located at any desired point including at the fixing member location).

As per claim 4, Jones teaches said member is a strip (as illustrated, mounting device 105 consists of strip-like tabs 116; figure 1) and said connector is attached to the strip (as illustrated, fixing members 120b is connected to the tabs 116; figure 1) and wherein adjacent an end, remote from the attached connector, said strip is structured to provide for the location of the connector of a similar subsequently located device (as

illustrated, the tabs 116 end at a remote location from fixing member 120b and ends at a subsequent adjacent mounting device at 120a; figure 1) such that the successive connectors are spaced by the element spacing distance (distance A; it is construed that an index can be located at any desired point including at the fixing member location).

As per claim 5, Jones teaches a plurality of said connectors (as illustrated, there are multiple fixing members 120; figure 3) provide a substantially orthogonal connection (as illustrated, the fixing members 120 are connected perpendicularly with respect to the header 12; figure 3) between a first building element (header 12) and a series of spaced-apart second building elements (lower truss members 22) connected to said first building element (as illustrated, the lower truss members 22 are connected to the header 12 at spaced apart intervals; figure 3)

As per claim 6, Jones teaches said first building element is a top frame member (header 12) of a wall frame (framed wall 10) and second building elements are roof trusses (lower truss members 22).

As per claim 7, Jones teaches said element spacing distance is the spacing distance between successive roof trusses to be attached by means of the connectors to said top frame member of a wall (as illustrated, the distance A between adjacent fixing members 120 is consistent with the distance between the lower truss members 22; figure 3).

As per claim 8, Jones teaches said first building element is a horizontal wall frame member (header 12) and said second building elements (studs 14) are vertical

wall frame members (the header 12 is supported by a plurality of studs 14 of a framed wall 10; col. 3, lines 4-5).

As per claim 9, Jones teaches said first and second building elements are mutually perpendicular horizontal floor support members (as illustrated, floor joists 30 are secured by mounting devices 105 and are perpendicularly arranged thereto; figure 6).

As per claim 10, Jones teaches said first building element is a horizontal building frame member (supporting wall 10; figure 6; which may be a foundation wall of a building; col. 5, lines 49-50) and said series of spaced-apart second building elements (floor joists 30) are horizontal bottom members of a generally vertical building sub-structure (as illustrated floor joists 30 are horizontal members of vertical foundation structure 10; figure 6).

As per claim 15, Jones teaches a method of erecting a building frame (a system for positioning and securing structural members of a building; abstract) including a first building element (header 12) of said building frame and a series of spaced-apart second building elements (lower truss members 22) connected to said first building element (as illustrated, the lower truss members 22 are connected to the header 12 at spaced apart intervals; figure 3), including the steps of: erecting a building frame portion including said first building element; attaching to said first said building element at least one building element connection and spacing device (mounting device 105) including a member of substantially inextensible material (the C-shaped channels of mounting device 105 are highly resistant to being deformed; col. 6, lines 10-11), a connector

(fixing member 120) located at at least one longitudinal position on said member (as illustrated, the fixing member 120 is located longitudinally on mounting device 105; figure 6) for providing a connection between first building element and a second building element, and at least one index at a longitudinal position on said member corresponding to a second building element spacing distance (the center to center distance A between adjacent structural members is selected to be a standard in the construction industry and dimension A can have alternate index intervals; col. 4, lines 3-9; it is construed that an index can be located at any desired point including at the fixing member location); attaching said second building element to said connector at said one longitudinal position (as illustrated, lower truss member 22 is attached to fixing member 120 at a longitudinal position; figure 3); locating a further similar connector at said index position (the center to center distance A between adjacent structural members is selected to be a standard in the construction industry; in addition, dimension A can have alternate index intervals; col. 4, lines 3-9; and further evidenced in figure 1; in addition, it is construed that an index can be located at any desired point including at the fixing member location); attaching said further connector to said first building element (as illustrated, header 12 is connected to a multiple fixing members 120; figure 1) ; and attaching a further second building element to said further connector (as illustrated, multiple lower truss members 22 are connected to the multiple fixing members 120; figure 3).

As per claim 16, Jones teaches said first building element is a top frame member (header 12) of a wall frame (framed wall 10) and second building elements are roof trusses (lower truss members 22).

As per claim 17, Jones teaches said element spacing distance is the spacing distance between successive roof trusses to be attached by means of the connectors to said top frame member of a wall (as illustrated, the distance A between adjacent fixing members 120 is consistent with the distance between the lower truss members 22; figure 3).

As per claim 18, Jones teaches said first building element is a horizontal wall frame member (header 12) and said second building elements (studs 14) are vertical wall frame members (the header 12 is supported by a plurality of studs 14 of a framed wall 10; col. 3, lines 4-5).

As per claim 19, Jones teaches said first and second building elements are mutually perpendicular horizontal floor support members (as illustrated, floor joists 30 are secured by mounting devices 105 and are perpendicularly arranged thereto; figure 6).

As per claim 20, Jones teaches all the limitations of claim 15, and further teaches a building frame (a system for positioning and securing structural members of a building; abstract) including a first building element (header 12) of said building frame and said series of spaced-apart second building elements (lower truss members 22) connected to said first building element (as illustrated, the lower truss members 22 are connected to the header 12 at spaced apart intervals; figure 3).

As per claim 21, Jones teaches a building frame (a system for positioning and securing structural members of a building; abstract) including a first building element (header 12) of said building frame and a series of spaced-apart second building elements (lower truss members 22) connect to said first building element (as illustrated, the lower truss members 22 are connected to the header 12 at spaced apart intervals; figure 3) wherein said first and second building elements are connected by connection and spacing devices (mounting devices 105).

Conclusion

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Daudet et al. (U.S. Patent No. 6,430,881) discloses an apparatus for attaching a building component to a support header. Jones (U.S. Patent No. 6,672,014) discloses a system for positioning and securing structural support members with mounting devices. Liang (U.S. Patent No. 5,274,973) discloses a stud spacer and mounting system. Moore (U.S. Patent No. 7,310,914) discloses a truss bracket for connecting roofing frame to a substructure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to OMAR HIJAZ whose telephone number is (571)270-5790. The examiner can normally be reached on Mon-Fri 9:30 a.m. - 7:00 p.m. (alternating Fridays).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lynda Jasmin can be reached on (571)272-6782. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

OFH

/Lynda Jasmin/

Supervisory Patent Examiner, Art Unit 4165